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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/980,393	02/27/2002	Francois Schmidt	111252	2878

7590 10/15/2003  
Oliff & Berridge  
Po Box 19928  
Alexandria, VA 22320

EXAMINER

DAVIS, OCTAVIA L

ART UNIT PAPER NUMBER

2855

DATE MAILED: 10/15/2003

Please find below and/or attached an Office communication concerning this application or proceeding.

## Office Action Summary

Application No.

09/980,393

Applicant(s)

SCHMIDT ET AL.

Examiner

Octavia Davis

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

### Status

- 1) ☒ Responsive to communication(s) filed on 31 July 2003.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

### Disposition of Claims

- 4) ☒ Claim(s) 1-11 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-11 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

### Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- 11) ☐ The proposed drawing correction filed on \_\_\_\_\_ is: a) ☐ approved b) ☐ disapproved by the Examiner.
- If approved, corrected drawings are required in reply to this Office action.
- 12) ☐ The oath or declaration is objected to by the Examiner.

### Priority under 35 U.S.C. §§ 119 and 120

- 13) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
  - ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- \* See the attached detailed Office action for a list of the certified copies not received.
- 14) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application).
- a) ☐ The translation of the foreign language provisional application has been received.
- 15) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121.

### Attachment(s)

- ☐ Notice of References Cited (PTO-892)
- ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- ☐ Information Disclosure Statement(s) (PTO-1449) Paper No(s) \_\_\_\_\_
- ☐ Interview Summary (PTO-413) Paper No(s) \_\_\_\_\_
- ☐ Notice of Informal Patent Application (PTO-152)
- ☐ Other: \_\_\_\_\_

## DETAILED ACTION

### *Claim Rejections - 35 USC § 103*

1. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

2. Claims 1 - 11 are rejected under 35 U.S.C. 103(a) as being unpatentable over Katoh in view of Takeuchi et al.

Regarding claims 1, 9 and 11, Katoh discloses a sensor arrangement for an engine control system comprising a first chamber 354 into which fuel is injected via fuel injectors 45, a pressure sensor 92 of which measures the pressure in the first chamber 354 prior to injection and during injection, a temperature sensor 93 of which measures the temperature in the first chamber 354 during injection, a second chamber 364 connected to the first chamber via a drain pipe 368, valves 44 for draining the chambers, the second chamber 364 being drained until a reference pressure is established and an electronic section 66 of which analyzes the signals from the sensors and which controls the valves (See Cols. 7, 8, 10 and 18, lines 40 - 65, 17 - 34, 21 - 41 and 10 - 45) but does not disclose a displacement sensor of which measures the displacement of a piston. However, Takeuchi et al disclose a fuel injection device comprising a first chamber 30 and a second chamber 31, the chambers being connected by a piston 29 and a detector 203 which measures the displacement of the piston 29 by means of a piston 104 (See Cols. 3, 4 and 9, lines 68 - 69, 1 - 7 and 3 - 15).

Therefore, it would have been obvious to one of ordinary skill in the art at the time the invention was made to modify Katoh according to the teachings of Takeuchi et al for the purpose of, delivering the detection signal from the displacement sensor to an ECU to control a solenoid valve and in turn regulating fuel supply (See Takeuchi et al, Col. 9, lines 20 - 26).

Regarding claim 2, in Katoh, the electronic section 66 contains a compensating device enabling the accounting of a pressure difference occurring in the first chamber 354 after successive draining (See Col. 8, lines 16 - 22).

Regarding claims 3 and 4, in Katoh, a back pressure regulator 57, 102 drains the first and second chambers 354, 364 (See Col. 8, lines 16 - 22, See Figs. 1, 2 and 36).

Regarding claims 5 and 6, Katoh lacks the piston 36 being pre-loaded by a spring. However, in Takeuchi et al, the piston 29 is provided with a spring 36. Therefore, it would have been obvious to one of ordinary skill in the art at the time the invention was made to modify Katoh according to the teachings of Takeuchi et al for the purpose of, providing a spring mechanism to force a piston toward a chamber (See Takeuchi et al, Col. 4, lines 17 - 21).

Regarding claim 7, in Katoh, a cooling system 69 cools the injector 45, the first and second chambers 354, 364, the piston 36 (See Col. 8, lines 59 - 66, See Figs. 1 and 4).

Regarding claim 10, in Katoh, the ECU 66 corrects injection values related to each injection such as pre-recorded calibration data (See Col. 10, lines 4 - 14).

### ***Response to Arguments***

3. Applicant's arguments filed 7/31/03 have been fully considered but they are not persuasive. In response to applicant's arguments that the references do not disclose a device for measuring a quantity of fuel injected by an injector, two measurement chambers both filled with

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fuel and a displacement sensor which measures the displacement of the piston, it is the examiner's position that " a device for measuring a quantity of fuel injected by an injector " has not been given patentable weight because the recitation occurs in the preamble. A preamble is generally not accorded any patentable weight where it merely recites the purpose of a process or the intended use of a structure, and where the body of the claim does not depend on the preamble for completeness but, instead, the process steps or structural limitations are able to stand alone. See *In re Hirao*, 535 F.2d 67, 190 USPQ 15 (CCPA 1976) and *Kropa v. Robie*, 187 F.2d 150, 152, 88 USPQ 478, 481 (CCPA 1951). With respect to " two measurement chambers both filled with fuel ", in Katoh, Col. 7, lines 34 – 39 and 51 – 55, the engine 22 includes chambers 38, 39 of which fuel air charge is delivered via an air inlet device 40 and fuel injectors 45 provided with an electric solenoid that operates an injector valve, an oxygen sensor assembly 91 is associated with the engine, Col. 11, lines 7 – 12, the assembly including a volume 107, a conduit 125 extends from a point in the chamber 107 and an inlet 121 opens into the chamber 107 and includes an inlet port 122 which opens into cylinder bore 35-2 of cylinder #2 with housing piece 353 defining chamber 354 (See Figs. 1, 28, 34 and 35), and with respect to " a displacement sensor which measures the displacement of the piston ", in Takeuchi et al, Col. 4, lines 17 – 21 and 24 – 28, a second chamber 31 is connected to the first chamber 30 by a piston 29 and a potentiometer 203 (Col. 9, lines 10 – 15) measures the displacement of the piston, wherein a portion of the first chamber is delivered to the second chamber and that portion in the second chamber is drained via a fuel channel 38, thus the references still stand.

**THIS ACTION IS MADE FINAL.** Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

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A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of this final action.

4. Any inquiry concerning this communication should be directed to Examiner Octavia Davis at telephone number (703) 306 - 5896. The examiner can normally be reached on Monday - Thursdays (9:00 - 5:00), Fridays off.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Edward Lefkowitz, can be reached on (703) 305 - 4816. The fax phone number for the organization where this application or proceeding is assigned is (703) 746 - 4409.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is (703) 308 - 0956.

JD

OD/2855

10/7/03

  
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